GOVERNMENT OF INDIA
FINANCE
LOK SABHA

STARRED QUESTION NO:142
ANSWERED ON:10.03.2017
Confiscation of Assets
Chowdhary Shri Pankaj

Will the Minister of FINANCE be pleased to state:

(a) Whether the Government is formulating or proposes to formulate any law to prevent big time offenders including economic offenders fleeing the country to escape the reach of law and if so, the details thereof;

(b) whether the Government also proposes to confiscate the assets of such persons located within the country and in foreign countries, if so, the details thereof; and

(c) whether the Government has taken cognizance of the observation made by the Supreme Court in this regard and if so, the reaction of the Government thereto?

Answer

MINISTER OF STATE IN THE MINISTRY OF FINANCE
(SHRI ARUN JAITLEY)

(a) to (c) : A statement is laid on the Table of the House.

Statement referred to in parts (a) to (c) of the Lok Sabha Starred Question No. 142 for answer on 10-03-2017 regarding "Confiscation of Assets" by Shri Pankaj Chaudhary

(a) The Government has made the following budget announcement in the Budget speech of 2017-18:

"In the recent past, there have been instances of big time offenders, including economic offenders, fleeing the country to escape the reach of law. We have to ensure that the law is allowed to take its own course. Government is therefore considering introduction of legislative changes, or even a new law, to confiscate the assets of such persons located within the country, till they submit to the jurisdiction of the appropriate legal forum. Needless to say that all necessary constitutional safeguards will be followed in such cases."

These legal issues are being examined to initiate further action in terms of formulating legislative amendments in the existing law or to formulate a new Law.

(b) Appropriate action against economic offenders is an ongoing process and the Government from time to time formulates / makes new provisions in the law to prevent commission / recurrence of such offences and to apprehend offenders. Following amendments have been made in the past three years in the relevant laws to this effect:-

(1) . Foreign Exchange Management Act, 1999 (FEMA):

(i) Amendments in FEMA have been made through section 2(gg), 13 A & 37A empowering the Authorized Officer to seize value equivalent, situated within India, of such foreign exchange, foreign security or immovable property situated outside India for its ultimate confiscation under section 13(1A).

(ii) Section 14A(1) and 14A(2) have been inserted in FEMA, 1999 in the year 2016 empowering Enforcement Directorate to recover arrears of penalty at par with Income Tax Act, 1961.

(2) . Prevention of Money Laundering Act, 2002 (PMLA):

(i) Where property/ proceeds of crime is taken or held outside the country, Section 2(1)(u) of PMLA has been amended through the Finance Act, 2015 enabling attachment and confiscation of property equivalent in value held within the country.

(ii) The offence of willful attempt to evade any tax, penalty or interest in relation to undisclosed foreign income and assets [referred to in section 51 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015] has been made a Scheduled Offence under Prevention of Money-laundering Act, 2002 (PMLA).

(3). Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015: This Act has been recently enacted to effectively tackle the issue of black money stashed abroad. The new law provides for separate taxation besides penalties of

undisclosed foreign income and assets.

(c) Question is not specific, as to which observations of Hon'ble Supreme Court has been referred to.